

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GORGE DESIGN GROUP, LLC, *et al.*,

Plaintiffs,

v.

SYARME, *et al.*,

Defendants.

Civil Action No.

20-1384

(Judge Stickman)

**PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY**

Plaintiffs, Gorge Design Group, LLC and Kirby Erdely, move this Honorable Court for leave to file the attached sur-reply brief and supplemental declarations of Nicholas Mesiti and Brian Samuel Malkin, respectively attached as Exhibits A, B, and C in opposition to Defendant's motion for attorney's fees. Plaintiffs reviewed the Court's Chamber Procedures and Interim Order and did not find permission to file a sur-reply brief as a matter of right nor page limitations. Therefore, Plaintiffs are seeking leave to file the sur-reply brief and supplemental declarations of Nicholas Mesiti and Brian Samuel Malkin, respectively attached as Exhibits A, B, and C.

The Court's standard page limits for briefing turns on whether the motion is dispositive or not. Whether the Defendant's motion for attorney's fees is dispositive or not, it appears to be the worst kind of barratry. Further, the Plaintiffs are a small business and the \$57,600.00 in attorney's fees sought by Defendant is a punishing and existential threat worthy of briefing for a dispositive motion.

Moreover, a review of Defendant's margins in its briefs and papers reveals that they have violated the local rules of 1" margins all around because the right margin of each paper measures at just over ½ inch. Accordingly, in their 16-page reply, Defendants placed more text and argument onto each page of their papers than permitted by the local rules. Therefore, Plaintiffs seek to file their brief at the currently filed number of pages.

Finally, Defendants introduced new claim interpretation evidence, legal arguments, and factual disputes to which Plaintiffs' would like to respond. Before filing this motion, Plaintiffs' counsel conducted a meet and confer with Defendant's counsel, but the Defendant did not consent to this sur-reply so it is contested by Defendant.

For all of the above reasons, good cause exists for the Court to grant the Plaintiffs' motion for leave to file a sur-reply brief and Plaintiffs would like to file the attached sur-reply brief (at the number of pages set forth) and supplemental declarations of Nicholas Mesiti and Brian Samuel Malkin, respectively attached as Exhibits A, B, and C. An appropriate proposed order granting the leave requested is filed herewith.

Respectfully submitted,

Dated: December 1, 2020

/s/ Stanley D. Ference III

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